IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 26TH OCTOBER 2007 / 4TH KARTHIKA 1929

WP(C).No. 31839 of 2007(M)

PETITIONER:

SUSAN ALEXANDER,
T.C.16/1706, KODIAT HOUSE, KUKKILIYA LANE,
DPI, JAGATHY, THIRUVANANTHAPURAM.

BY ADV. SRI.D.KISHORE

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT (RA) DEPARTMENT,
THIRUVANANTHAPURAM-695001.

2. THE CORPORATION OF THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY,THIRUVANANTHAPURAM,
PIN:695001

R1 BY SR.GOVT.PLEADER K.J.MOHAMMED ANZAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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W.P.(C)No.31839 OF 2007

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DATED THIS THE 26TH OCTOBER, 2007

J U D G M E N T

Under challenge in this Writ Petition are Ext.P2 letter issued by the Government and Ext.P3 show-cause notice issued by the 2nd respondent-Corporation. Mr.D.Kishore, learned counsel for the petitioner submits that in the teeth of Ext.P2, filing objections to Ext.P3 notice of the Corporation will be an empty formality. Drawing my attention to sub-rule (5) of Rule 18 of the Kerala Municipality Building Rules, Mr.Kishore submits that it is obligatory that the Government should have given notice to the petitioner before Ext.P2 was issued.

2. The learned Government Pleader submits that Ext.P3 is a show-cause notice by which the Secretary of the Corporation proposes to invoke Rule 16 of the Kerala Municipality Building Rules on the ground of suppression of a material fact and it is open to the petitioner to file her objections to Ext.P3 in which case the Secretary of the Corporation will take appropriate action, keeping himself within the contours of Rule 16. On behalf of Mr.Nandakumara Menon, Standing Counsel for the Corporation also the submissions of the Government Pleader are practically endorsed.

3. Under these circumstances, I dispose of the Writ Petition

issuing the following directions:-

All concerned including the Secretary of the Corporation will treat Ext.P3 as notice regarding invocation of powers under Rule 16 of the Kerala Municipality Building Rules. The petitioner will file her objections to Ext.P3 within 10 days from today. It is open to the petitioner to do whatever is necessary for substantiating the objections to be raised by her to Ext.P3. Once the objections are filed and necessary enquiries are completed, the Secretary of the Corporation will take a decision on the question of revoking the building permit issued to the petitioner. While taking such decision, the Secretary of the Corporation will not be influenced by anything that has been stated by the Government in Ext.P2 letter.

(PIUS C.KURIAKOSE, JUDGE)

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